

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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BEASTIE BOYS, A NEW YORK PARTNERSHIP, :  
MICHAEL DIAMOND, ADAM HOROVITZ AND :  
DECHEM YAUCH AS EXECUTOR OF THE :  
ESTATE OF ADAM YAUCH, DECEASED, EACH :  
INDIVIDUALLY AND COLLECTIVELY D/B/A/ :  
BROOKLYN DUST MUSIC, :  
Plaintiffs, :  
-v- :  
MONSTER ENERGY COMPANY, :  
Defendant. :  
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: 12 Civ. 6065 (PAE)

: REPLY DECLARATION OF  
: PAUL W. GARRITY IN  
: SUPPORT OF PLAINTIFFS'  
: MOTION FOR ATTORNEY'S  
: FEES AND COSTS

I, PAUL W. GARRITY, declare and state as follows:

1. I am a partner in the law firm of Sheppard Mullin Richter & Hampton LLP ("Sheppard Mullin"), the attorneys representing Plaintiffs Beastie Boys, a New York Partnership, Michael Diamond, Adam Horovitz, and Dechen Yauch, as Executor of the estate of Adam Yauch, deceased, each individually and collectively d/b/a Brooklyn Dust Music (collectively, the "Plaintiffs") in this matter. I submit this declaration in support of Plaintiffs' motion for an award of attorney's fees and costs pursuant to Rule 54 of the Federal Rules of Civil Procedure, Section 505 of the Copyright Act, Section 1117 of the Lanham Act, and any other applicable statutes and rules (the "Motion").

2. Attached as Exhibit A is a true and accurate copy of a February 13, 2014 email attaching Plaintiffs' proposed stipulations of fact to be submitted in connection with the parties' joint pretrial order in this matter.

3. Attached as Exhibit B are true and accurate copies of a February 13, 2014 email from Monster's counsel.

4. Attached as Exhibit C is a true and accurate copy of the 2014 National Law Journal Billing Survey, published by American Lawyer Media (the "Survey"). According to the Survey, the average hourly rate for a partner at a New York-based law firm is \$883.18 and the national average is \$613.05. The average hourly rate for an associate at a New York-based law firm is \$531.21 and the national average is \$376.66. These averages were calculated by sorting and averaging the data contained in the Survey using the Microsoft Excel program, which is the format in which the Survey was provided to Plaintiffs by American Lawyer Media.

5. Attached hereto as Exhibit D is a true and accurate copy of a summary chart reflecting all of the time entries containing the term "Wheels" on which Plaintiffs are seeking attorney's fees in the Motion. The chart was compiled by searching for the term "Wheels" in the electronic records underlying the bills submitted as Exhibit U to the Declaration of Kenneth B. Anderson in support of the Motion.

6. Attached hereto as Exhibit E is a true and accurate copy of a 2013 General Graphics Pricing proposal from TrialGraphix, the service Monster used to run its courtroom technology at trial.

7. In connection with this action, Plaintiffs' counsel was assisted by four extremely capable paraprofessionals. Lisa Rodriguez was the sole paralegal who worked on this matter. Ms. Rodriguez received a bachelor's degree from Syracuse University and has twenty-five years of experience as paralegal working for Sheppard Mullin, other prominent New York law firms, and the New York Stock Exchange. Ms. Rodriguez also holds a paralegal certification from the Law Journal Paralegal Institute. As reflected in the time records submitted in support of the Motion, Ms. Rodriguez performed critical tasks in connection with discovery and the trial of this

matter. Based on my twenty years of experience as an attorney, during which I have practiced exclusively in the New York City market, the average rate of \$254.42 for Ms. Rodriguez's time is reasonable, as it is equivalent or comparable to the prevailing rates charged for the time of similarly experienced paralegals at other law firms in this market.

8. Stephanie Limbaugh was the Senior Trial Support Specialist who assisted Plaintiffs' counsel at trial. Ms. Limbaugh received a bachelor's degree from California State University, Los Angeles and has been a Trial Support Specialist at Sheppard Mullin for over five years. Before that time, Ms. Limbaugh was an electronic discovery Litigation Support Specialist for nine years. As reflected in the time records submitted in support of the Motion, Ms. Limbaugh prepared the digital presentation of evidence in advance of trial, appeared before the Court and ran Plaintiff's courtroom technology throughout the trial, and acted as a trial paralegal in assisting Plaintiffs' counsel. Based on my twenty years of experience as an attorney, the average rate of \$235 for Ms. Limbaugh's time is reasonable, as it is equivalent or comparable to the prevailing rates charged for the time of similarly experienced trial support specialists, trial technicians and paralegals at other law firms in this market.

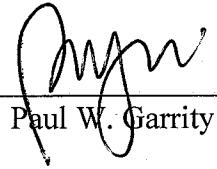
9. Giles Mitchell was the Litigation Support Specialist who assisted Plaintiffs' counsel with discovery in this matter. Mr. Mitchell received a bachelor's degree from The College of Wooster and has been a Litigation Support Specialist at Sheppard Mullin for four years. Before that time, Mr. Mitchell was a paralegal at Sheppard Mullin and another prominent New York firm for over four years. As reflected in the time records submitted in support of the Motion, Mr. Mitchell assisted with electronic discovery in this matter, including processing data, overseeing Plaintiffs' electronic document production, and processing the audio visual evidence that was central to Plaintiffs' claims. Based on my twenty years of experience as an attorney, the average rate of \$215.48 for Mr. Mitchell's time is reasonable, as it is equivalent or comparable to

the prevailing rates charged for the time of similarly experienced trial support specialists, trial technicians and paralegals at other law firms in this market.

10. Brian Simpson was the Managing Clerk of Sheppard Mullin's New York office during discovery and trial in this matter. As reflected in the time records submitted in support of the motion, Mr. Simpson assisted Plaintiffs' counsel with filing and submitting documents to the Court, and ensuring compliance with the Local and Electronic Case Filing rules. Based on my twenty years of experience as an attorney, the average rate of \$204.22 for Mr. Simpson's time is reasonable, as it is equivalent or comparable to the prevailing rates charged for the time of similarly experienced managing clerks.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 20, 2015



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Paul W. Garrity